

# California Department of Corrections Financial Information Memo

<b>SUBJECT:</b>	<b>FIM NUMBER:</b>
PERSONAL USE OF QUALIFIED LAW ENFORCEMENT VEHICLES	<b>2004-04</b>
<b>REFERENCES:</b>	<b>DATE: April 19, 2004</b>
Internal Revenue Service Regulation 1.274-5T(k) Replaces FIM 2000-10, Dated 11/2/2000	

## **DISTRIBUTION**

Law Enforcement and Investigations Unit  
Parole and Community Services Division  
Institutions Division  
Office of Investigative Services

## **PURPOSE**

The Internal Revenue Service (IRS) controls requirements for reporting commute miles as a taxable employee fringe benefit when using a State vehicle for personal use. This Financial Information Memo clarifies the use of qualified non-personal use vehicles (QNPUVs) and related criteria that when satisfied, do not require reporting of commute miles as a taxable employee benefit. Per IRS Regulation 1.274-5T(k) 2, employees that are assigned a qualifying vehicle, satisfy the definition of a law enforcement officer and who routinely (demonstrated via facts and circumstances of “actual use”) perform law enforcement duties would not claim personal commute miles as a taxable fringe benefit. Law Enforcement Investigation Unit agents, Parole agents and Investigative Services agents who meet all three requirements **may** qualify for this exemption.

## **BACKGROUND**

IRS Regulation 1.274-5T(k) 2 defines QNPUVs and related mandatory criteria which preclude personal use as a taxable benefit. This regulation states in part the following:

**Unmarked Law Enforcement Vehicles** Unmarked vehicles used by law enforcement officers if the use is officially authorized. Any personal use of an unmarked law enforcement vehicle must be authorized by the federal, state county or local governmental agency or department that owns or leases the vehicle and employs the officer. The personal use must be necessary to help enforce the law, such as being able to report directly from home to a stakeout site or to an emergency. Use of unmarked vehicle for vacation or recreational trips cannot qualify as an authorized use.

**Law Enforcement Officer** A law enforcement officer is a person who is employed on a full-time basis by a governmental unit that is responsible for preventing or investigating crimes involving injury to person or property (including catching or detaining persons for these crimes). The officer is allowed by law to carry firearms, to execute search warrants, and to make arrests (other than citizen’s arrests) and who regularly carries firearms except when working undercover.

# California Department of Corrections

## Financial Information Memo

Personal Use of Qualified Law Enforcement Vehicles

Page 2

### **DISCUSSION**

Peace Officers may be assigned vehicles for the purpose of covering large geographical areas surrounding their field offices, and for being called for mutual aid to assist other field offices or law enforcement agencies. Home storage may be approved for a Peace Officer to allow timely response to emergencies, i.e. a prison escape, homicide or other serious crime committed by a person under the jurisdiction of CDC, officer protection, or high-risk transportation of an inmate. **However, home storage of a State vehicle does not automatically qualify a vehicle nor its use under Regulation 1.274-5T(k) 2.** Peace Officers may also routinely begin their regular workday at the time they leave their residences and it is not uncommon to only travel to the field office once or twice a week.

The unmarked law enforcement State vehicles used by Peace Officers that qualify as QNPUVs are classified as emergency vehicles in accordance with the regulations set forth in the California Vehicle Code. They are equipped with emergency red lights, sirens, and California Highway Patrol radios. Further, they are equipped with specialized storage areas to secure authorized firearms. Due to this emergency status, these vehicles cannot be left overnight in unsecured field office parking lots.

The designation of California Peace Officer generally meets the definition of law enforcement officer under Regulation 1.274-5T(k) 2. The routine performance of the law enforcement duties noted above is necessary to meet the facts and circumstances requirement.

### **SUMMARY**

Based on the above IRS regulation and as authorized by CDC, Peace Officers that are assigned an unmarked State QNPUV, carry firearms and routinely perform law enforcement duties do not need to report personal commute miles as a taxable fringe benefit. CDC shall determine what employees satisfy IRS requirements based on their assignment of tasks, equipment, authorization for personal use of State QNPUVs and actual work performances. CDC cannot issue a blanket certification for all employees assigned vehicles nor automatically continue exemption status to a qualifying employee that later changes his assignment and no longer meets the IRS criteria. The authorizing supervisor or manager is responsible and must monitor the appropriateness of each employee's exemption from reporting commute mileage as a taxable benefit throughout its duration.

**Routine commuting by a Peace Officer in an unmarked law enforcement vehicle to and from home to a headquarters site does not qualify for exemption from reporting commute miles as a taxable employee benefit. Qualification is based on meeting all three criteria required by IRS Regulation 1.274-5T(k) 2.**

# California Department of Corrections

## Financial Information Memo

Personal Use of Qualified Law Enforcement Vehicles

Page 3

### **ACTION REQUIRED**

To exempt reporting personal use of non-personal use vehicles, the authorizing supervisor or manager must maintain documentation substantiating the requirements outlined above, and regularly document that the facts and circumstances exist to maintain that exemption. The authorized use of QNPUVs shall be provided to the law enforcement officer in writing and maintained on file for audit purposes.

If you have further questions regarding this FIM, please contact Paul Thatcher, Chief, Accounting Policies and Procedures Section at (916) 322-6051, or William B. Dougherty, Chief, Accounting Management Branch at (916) 324-6525 or CALNET 454-6525.

### ***ORIGINAL SIGNED BY***

WENDY STILL

Deputy Director

Financial Services Division

cc: Executive Staff  
Tim Gilpin, Regional Accounting - North  
Carol Gardemal, Regional Accounting - South  
Regional Accounting Office Managers  
William B. Dougherty, Accounting Management Branch  
Paul Thatcher, Accounting Policies and Procedures Section